

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

ALICE TOLEDANO,

Plaintiff,

v.

COMMISSIONER, SSA,

Defendant.

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CIVIL ACTION NO. 4:15CV670

JUDGE MAZZANT/JUDGE JOHNSON

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION **OF UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the Report of the United States Magistrate Judge in this action, the matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On January 3, 2017, the Report of the Magistrate Judge (Dkt. #17) was entered containing proposed findings of fact and recommendations that the decision of the Administrative Law Judge (“ALJ”) be affirmed in part and remanded in part.

Having received the report of the United States Magistrate Judge, and no objections thereto having been timely filed, this Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge’s Report as the findings and conclusions of the Court.

It is, therefore, **ORDERED** that the decision of the Commissioner is **AFFIRMED IN PART** and **REMANDED IN PART**. The Commissioner’s decision regarding the weighing of medical evidence is **AFFIRMED**. The Commissioner’s decision as to step five of the analysis is not supported by substantial evidence; thus, on remand, the Court finds the ALJ shall fully develop

the record with regard to whether there are other positions available besides jobs at a sedentary level to discover whether Plaintiff Alice Toledano is exertionally limited to sedentary occupations.

IT IS SO ORDERED.

SIGNED this 25th day of January, 2017.

A handwritten signature in black ink, reading "Amos Mazzant", written over a horizontal line.

AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE